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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,881

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Yasushi Yagi

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01/27/2010

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EXAMINER

SMITH, PHILIP ROBERT

ART UNIT

PAPER NUMBER

3739

MAIL DATE

DELIVERY MODE

01/27/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,881	Applicant(s) YAGI ET AL.	
	Examiner PHILIP R. SMITH	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election of Species Requirement

[01] This application contains claims directed to the following patentably distinct species of endoscope:

[01a] A probe-type endoscope, as in claim(s) 17.

[01b] A capsule-type endoscope, as in claim(s) 18.

[01c] The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species of endoscope for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim(s) 1-16 are generic with respect to the species of endoscope.

[02] There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

[03] Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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- [04] The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.
- [05] Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.
- [06] Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Second Election of Species Requirement

- [07] This application contains claims directed to the following patentably distinct species of image generation unit:
- [07a] Having a motion estimation unit comprising a corresponding point detection unit, as in claim(s) 2-3,8.
- [07b] Having a motion estimation unit comprising a camera motion correction unit responsive to a segmentation movement by a sine wave, as in claim(s) 2,4-5,8.

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- [07c] Having a motion estimation unit comprising a camera motion correction unit responsive to a peristalsis movement by movement of a soliton, as in claim(s) 2,4,6,8.
- [07d] Having a motion estimation unit comprising a camera motion correction unit responsive to a segmentation movement by a sine wave, as in claim(s) 2,4,7-8.
- [07e] Having a feature region cutout unit wherein the predetermined energy is determined based on differences in pixel value, as in claim(s) 9-10,15.
- [07f] Having a feature region cutout unit wherein the predetermined energy is determined based on differences in area between triangular patches, as in claim(s) 9,11,15.
- [07g] Having a feature region cutout unit wherein the predetermined energy is determined based on between a coordinate obtained by correcting and a coordinate of a great circle, as in claim(s) 9,12,15.
- [07h] Having a feature region cutout unit wherein the predetermined energy is determined based on a degree of deviation of a plurality of control points, in a second image taken by said camera, which respectively correspond to a plurality of control points selected from a first image taken by said camera, as in claim(s) 9,13,15.
- [07i] Having a feature region cutout unit wherein the predetermined energy is determined based on a degree of deviation between a plurality of control points selected from a first image taken by said camera and a plurality of control points, in a second image taken by said camera, which respectively correspond to the plurality of control points selected from the first image, as in claim(s) 9,14-15.
- [07j] The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not

obvious variants of each other based on the current record. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species of image generation unit for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim(s) 1 & 16-18 are generic with respect to the image generation unit.

- [08] There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.
- [09] Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
- [10] The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37

CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

- [11] Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.
- [12] Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Telephonic Election

- [13] A telephone call was made to Mr. Charles Watts (202) 721-8200 on January 25, 2010, to request an oral election to the above restriction requirement, but did not result in an election being made.

Conclusion

- [14] Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHILIP R. SMITH whose telephone number is (571)272-6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [15] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [16] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is

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available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Philip R Smith/

Examiner, Art Unit 3739